



STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546



Office of the
Commissioner

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Public Hearing – March 8, 2007
Labor and Public Employees Committee

Testimony Submitted by Commissioner Ralph J. Carpenter
Department of Transportation

H.B. 7032 - An Act Concerning the Retention of Jobs in Connecticut and the United States.

The Department of Transportation (DOT) is opposed to H.B. 7032, AAC the Retention of Jobs in Connecticut and the United States and offers the following comments:

The Department is required to comply with the "Code of Federal Regulations" (CFR) for all Federal -Aid projects. H.B. 7032 is in violation of the CFR in several areas. First and foremost, 23 CFR 635.110, "Licensing and qualification of contractors" states that all procedures used in qualifying contractors with regard to bidding, awarding or performing of contracts, must be approved by the Federal Highway Administration (FHWA) Division Administrator. Any changes to such procedures must likewise, be approved by FHWA. The proposed legislation represents such a change and would therefore require prior approval by the FHWA.

Second, this section of CFR requires an open bidding process. 23 CFR 635.110(b) and 112(d) and 117 prohibit any requirement which operates to restrict bidders whether non-resident or based on national origin or other prohibited factors. The regulations also prohibit discrimination based on materials except as provided by law. Additionally, U.S. DOT wide regulations mandate that the U.S. Trade Representative set the foreign trade policies involving federally funded contracts and prohibits interference with that discretion. (49 CFR, Part 30). The legislation as proposed would conflict with the above policies as expressed in federal law and would not be permitted in federal-aid contracts. If they were applicable the contracts could not be funded through the federal transportation trust fund. FHWA, the Federal Aviation Administration, and Federal Transit Administration do not allow the type of geographical preference contained in H.B. 7032 for purchases made with federal funds.

Further, 23 CFR 635.114 states that federal aid contracts shall be awarded on the basis of lowest responsible bid only and then refers back to 23 CFR 635.110 in the qualification of such a bid.

DOT must be in compliance with the above noted federal regulations in order to retain federal participation in its construction projects.

The Department is also extremely concerned about the impact this legislation could have on our rail program as it pertains to the new M-8 rail car purchase. The cars are being designed and produced by Kawasaki Rail Car, Inc. Although Kawasaki has many parts are being produced by

U.S. suppliers - one in fact in Milford, Connecticut - due to the global economy many will be produced overseas. DOT is concerned the bill will significantly impair our ability to procure new rail cars in the future and maintain existing cars going forward.

Further, if DOT does not have access to proprietary information, expertise and technology, which is available outside the United States, Connecticut's transportation system and its users may miss out on the best that the marketplace has to offer. The Department currently has buses, trains and other equipment that were manufactured outside the United States. The expertise of these manufacturers is essential for proper maintenance and repair of such equipment.

While there is insufficient information to prepare a fiscal impact statement for this bill, it is estimated to be substantial if H.B. 7032 prejudices use of federal funds for transit equipment. In addition, the extensive reporting requirements mandated in the bill with regard to the origination of all goods and services provided on State contracts would necessitate a monumental administrative effort on the part of the Department.

For further information or questions, please contact Pam Sucato, Legislative Program Manager for the Department of Transportation, at (860) 594-3013.